

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN BOB STORY**, on March 26, 2001 at 8:00 A.M., in Room 472 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Bob Story, Chairman (R)  
Rep. Roger Somerville, Vice Chairman (R)  
Rep. Joan Andersen (R)  
Rep. Keith Bales (R)  
Rep. Joe Balyeat (R)  
Rep. Gary Branae (D)  
Rep. Eileen Carney (D)  
Rep. Larry Cyr (D)  
Rep. Rick Dale (R)  
Rep. Ronald Devlin (R)  
Rep. John Esp (R)  
Rep. Gary Forrester (D)  
Rep. Daniel Fuchs (R)  
Rep. Verdell Jackson (R)  
Rep. Jesse Laslovich (D)  
Rep. Trudi Schmidt (D)  
Rep. Butch Waddill (R)  
Rep. Karl Waitschies (R)  
Rep. David Wanzenried (D)

**Members Excused:** Rep. Ron Erickson, Vice Chairman (D)

**Members Absent:** None.

**Staff Present:** Jeff Martin, Legislative Branch  
Rhonda Van Meter, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 639, HB 648, HB 647,  
3/22/2001  
Executive Action: HB 646, HB 644, HB 645, HB 639, HB 648,  
HB 647 & HB 600

HEARING ON HB 639

Sponsor: REP. DEBBY BARRETT, HD 34, DILLON

Proponents: Jason Pillman, Chief Deputy, Business Services,  
Secretary of State

Opponents: None

Opening Statement by Sponsor:

REP. DEBBY BARRETT, HD 34, DILLON, presented a testimony  
**EXHIBIT** (tah68a01) .

Proponents' Testimony:

Jason Pillman, Chief Deputy, Business Services, Secretary of State, explained the office and responsibilities of records filing and maintenance of public records. He felt the current financial structure emphasized the governmental body instead of upon the customer services and taxpayer needs.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. JOE BALYEAT referred to lines 18 and 19 and was concerned about the language. He asked if they were able to utilize clarifying language. Jason Pillman said the intent was to not have the authority to set all fees for state government. He was open to clearing up the language.

REP. BALYEAT asked if there was a list. Jason Pillman answered yes.

REP. BALYEAT asked if this would pertain to people in the private sector. Jason Pillman said currently the Secretary of State has the authority to set the fees by rule. He said they were seeking the authority to have a necessary revenue to meet expenses.

REP. BALYEAT asked about the overall fee and if this bill would offer the ability more than the cost. Jason Pillman said the enterprise function makes additions to the working capital.

REP. EILEEN CARNEY wondered about the fees involved. Jason Pillman explained the fees and the process involved with filings of the Secretary of State's office.

**REP. TRUDI SCHMIDT** asked how the process would work. **Jason Pillman** said the process would not change and he emphasized where information could be found.

**CHAIRMAN STORY** asked who would be notified of the fee increase. **Janice Doggett, Chief Legal Counsel, Secretary of State**, said the process would go through the state of Montana and would be published on the internet. She explained the process and rules of procedure.

**CHAIRMAN STORY** wondered about the rule and what would be amended. **Janice Doggett** said it depends upon repealing rules. She explained the fees and where they would be within the notice.

**Closing by Sponsor:**

**REP. DEBBY BARRETT, HD 34, DILLON**, summarized the fee structure and explained sections within the bill.

**HEARING ON HB 648**

**Sponsor:** **REP. CHRISTINE KAUFMAN, HD 53, HELENA**

**Proponents:** **Tim Davis, Executive Director, MT. Smart Growth Coalition**

**Opponents:** **Peggy Trenk, MT. Association of Realtors  
Don Allen, Western Environmental Association**

**Informational Witness:** **Don Hartley, Administrator, Forestry  
Division, Department of Natural  
Resources**

**Opening Statement by Sponsor:**

**REP. CHRISTINE KAUFMAN, HD 53, HELENA**, stated the funding process for fire seasons. She said the bill would create a property tax levied on structures within the wild-land urban interface, setting a cap on the account of \$50 million. She went through sections of the bill and offered definitions.

***{Tape 1; Side B}***

**Proponents' Testimony:**

**Tim Davis, Executive Director, MT. Smart Growth Coalition**, believed it was stated clearly of protecting the wild-land urban

interface areas. He thought this legislation would assist these areas.

**Opponents' Testimony:**

**Peggy Trenk, MT. Association of Realtors**, said this bill would place a tax on people due to a policy decision. She gave examples of people being impacted by taxation.

**Don Allen, Western Environmental Trade Association**, added Section three was not clear due to revenue impact. He felt there were many questions that would be raised from this bill and it should not pass.

**Don Hartley, Administrator, Forestry Division, Department of Natural Resources**, gave a background of wild land areas in Montana. He mentioned expanding into forest areas through communities and the need for taxpayers to understand the costs involved with this bill.

**Questions from Committee Members and Responses:**

**REP. CARNEY** asked why homeowners wouldn't pay the cost for defending their property. **Don Hartley** said by statute they can be charged the cost of a fire, if started through negligence. There was no provision to prevent people from building homes in dangerous location.

**REP. CARNEY** referred to Section three of the bill and asked why the fees were low. **Don Hartley** talked about suppression costs and the homeowners having to pay part of the costs. They are charged per acre and it is assessed by the county.

**REP. CARNEY** asked if there was a provision for individual landowners for protecting their land from fires. **REP. KAUFMAN** referred to page two and said it requires the landowners to make an appeal.

**REP. TRUDI SCHMIDT** asked if there was a way to track these incidences. **Don Hartley** answered yes, there was a system they looked at through Oregon. He said it assesses private land and there would be a surcharge involved.

**REP. SCHMIDT** asked if this legislation had been pattern after any other states language. **Don Hartley** stated no.

**REP. SCHMIDT** asked how many landowners had been affected by this. **Don Hartley** said they were unable to estimate any degree of accuracy.

**REP. BALLYEAT** asked if there would be a provision for landowners who build a fire to burn areas around their home. **Don Hartley** said there were guidelines for landowner to protect the space around their property.

**REP. BALLYEAT** asked if most of these fires have started on government owned land. **Don Hartley** said yes, most of the fires have started on federal land. He explained private lands and stated it becomes a complex situation.

**REP. BALLYEAT** asked if any survey was done in the rural areas as to what caused the fires. **Don Hartley** stated how fires may begin and the government spends money to protect homes, which they need to research.

**REP. BALLYEAT** asked if there were fire dangers within city limits. **Tim Davis** explained the difference of city residents and the tax involved.

**REP. RON DEVLIN** asked if this would include other areas. **Don Hartley** said they were trying to change the language to expand to wild land areas and they would fall into this category.

**REP. DEVLIN** asked if this could be offset at a risk level. **Don Hartley** felt the structure of this bill could be.

**REP. KEITH BALES** asked if they would exempt people working in forest areas from this tax. **REP. KAUFMAN** emphasized people milling within the forest would cause resources to be at risk. She stated the tactics to find them would be less expensive due to the ground they are on.

*{Tape 2; Side A}*

**REP. JOHN ESP** asked why this was set up to increase the interest. **REP. KAUFMAN** said this would be a way to build up a fund and work off of the interest.

**REP. ESP** asked about the tax policy. **REP. KAUFMAN** thought it would be a smart way to utilize the system by expanding the interest.

**REP. ROGER SOMERVILLE** asked how this would fit in with rural fire department fees. **Don Hartley** believed this would be an addition to the fees.

**REP. SOMERVILLE** asked who would set up the standards to check if an individual has protected their structures. **Don Hartley** said

it would be the county commissioners. He explained the fees were collected by the department and force fire districts were formed by landowners.

**REP. DEVLIN** asked about improvements upon the property and if how they were taxed. **REP. KAUFMAN** said it was not the intention of the bill to tax these owners under this bill. She said if an amendment needed to be added to clarify the language, that would be fine.

**REP. ESP** asked why certain homes be exempted from tax due to structures built on agricultural land. **REP. KAUFMAN** would hope that it would not be and the intention was to exclude farm and ranch areas.

**REP. BUTCH WADDILL** asked about an idea of costs. **REP. KAUFMAN** said it would be \$25 on a \$100,000 home.

**REP. WADDILL** asked about yellow jackets and if they were trained to fight fires. **Don Hartley** said the federal agencies train crews to fight grass and forest fires, they were not trained for structural fires.

**REP. JOAN ANDERSEN** asked if Cooke City would be part of this area. **REP. KAUFMAN** said incorporated towns are exempted.

**REP. SOMERVILLE** was curious of DRNC standards. **Don Hartley** said he would provide a copy of the standards. He explained the guidelines of clearing trees back from the structures.

**Closing by Sponsor:**

**REP. CHRISTINE KAUFMAN, HD 53, HELENA**, mentioned the risk to taxpayers and the benefits from forest fires. She explained where the costs go from a fire season. She urged a possible consideration towards the bill.

**HEARING ON HB 647**

**Sponsor:** **REP. KIM GILLAN, HD 7, BILLINGS**

**Proponents:** **Debbie Smith, Natural Resources Defense Council**  
**Holly Franz, ASME, Butte**

**Opponents:** **John Alke, MT./Dakota Utilities**  
**Ken Morrison, PPL Montana**

**Informational Witnesses:**                    **Dennis Lopatch, Northwestern Corporation**  
**Gene Wilkison, Department of Revenue**

**Opening Statement by Sponsor:**

**REP. KIM GILLAN, HD 7, BILLINGS**, presented a testimony **EXHIBIT (tah68a02)**. She handed out information on public utilities and carriers **EXHIBIT (tah68a03)**.

*{Tape 2; Side B}*

**Proponents' Testimony:**

**Debbie Smith, Natural Resources Defense Council**, mentioned energy efficiency improvements, renewable resources and investments for low income families. She referred to page thirteen of the bill and explained the income produced to reduce to the electrical rates. She liked the definition of an affiliate supplier because it reaffirms the original intent of SB 390.

**Holly Franz, ASME, Butte**, referred to Section three and clarified large industrials receiving the supply. She liked the language explaining this section. She handed out possible amendments to add to this bill **EXHIBIT (tah68a04)**.

**Opponents' Testimony:**

**John Alke, MT./Dakota Utilities**, did not like the excess profits tax provision. He said this issue would have an impact on the utilities division. He interpreted the bill by the sales would credited back into the pool and profits being taken to the Montana power system.

**Ken Morrison, PPL Montana**, read a testimony and offered information **EXHIBIT (tah68a05)**.

**Informational Witnesses:**

**Dennis Lopatch, Northwestern Corporation**, gave an understanding of Section six of the bill. He felt the funds would provide to buy contracts for customers. He would be available for any questioning.

**Gene Wilkison, Department of Revenue**, would be available for any questions.

**Questions from Committee Members and Responses:**

**REP. CARNEY** asked about the excess profits. **John Alke** explained the problem of how the bill calculates excess profits. He stated the costs involved and the process.

**REP. CARNEY** asked how much the cost was to produce a kilowatt hour. **Ken Morrison** said they were charging a \$22.25 per megawatt hour and \$2.25 per kilowatt hour. He said for the generation, it would vary depending upon the market.

**REP. SOMERVILLE** asked if an industry chose to go to a default supplier, was there a time frame. **REP. GILLAN** referred to page nine and addressed the issues pertaining to the default supplier.

**REP. SCHMIDT** asked about industrial customers. **REP. GILLAN** said she had researched these customers, but had not researched the mill industrial customers.

**REP. SCHMIDT** asked for clarification of Montana Power contracts. **Ken Morrison** explained how contracts were processed. He said there were more power generators within the state of Montana.

**REP. DALE** asked about calculated excess funds and how they were determined. **REP. GILLAN** referred to page twelve and addressed how the profits were calculated.

***{Tape 3; Side A}***

**REP. BALYEAT** asked about the sale prices and buying power at certain rates. **REP. GILLAN** thought the assumption was most of the power generated within Montana was sold in the state and there was adequate supply to not go out and market.

**REP. BALYEAT** asked if this was a tax on sale price. **Ken Morrison** answered yes.

**REP. BALYEAT** asked about the rates. **Ken Morrison** said the rates depend on the market at the time.

**REP. DEVLIN** wondered about the average and asked if there was a report. **REP. GILLAN** explained the contract between PPL and Montana Power.

**REP. DEVLIN** asked how the excess profits worked. **Ken Morrison** didn't think the bill was clear on the issue of calculation.



**REP. BALES** was concerned about the excess profit tax also. He asked how the tax would be effective. **REP. GILLAN** explained the base price and she mentioned an inflation factor.

**REP. ESP** asked about low cost power programs for the state. **REP. GILLAN** mentioned rebates to the customers and felt it would be cumbersome. She stated people would not begin conserving unless they are extended accurate price signals.

**REP. DEVLIN** asked about the calculations and the intent. **Gene Wilkison** explained the calculations and how to subtract the generated times of kilowatt hours.

**REP. SOMERVILLE** asked how a deduction could be added for purchasing out of state power. **Gene Wilkison** said a deduction could not be added.

**REP. SOMERVILLE** asked how to solve the problem of high pricing out of state purchases. **REP. GILLAN** said there were no provisions to accommodate this issue. She mentioned adding an amendment to the bill to help it move forward.

**CHAIRMAN STORY** asked about companies generation. **REP. GILLAN** discussed the energy policies and said that was not an issue with this bill.

**REP. RICK DALE** asked about the process of financial rating on a company to acquire power. **REP. GILLAN** answered no, there was no process involved with financial rating. She talked about cost space and generation tax exemptions.

**REP. DALE** asked about excess profits and wondered if the language could be changed. **REP. GILLAN** talked about another bill factoring in costs. She tried to explain the excess profits and if clarification was needed to wasn't opposed to it.

**REP. BALES** referred to Colstrip and asked how to determine the price or the base price. **Tom Ebzery, MT. Contractors Association**, explained how this went to Montana Power and the grid involved.

*{Tape 3; Side B}*

**REP. WAITSCHIES** wondered about the energy regulation. **REP. GILLAN** mentioned the default supplier.

**REP. WAITSCHIES** asked how they would regulate the supply. **REP. GILLAN** said one of the intentions of this bill was to extend the

transition period. She explained the default supplier and how the process worked.

**REP. GARY FORRESTER** asked how to maintain control of the power in Montana. **REP. GILLAN** said maintaining control over and insure the cost base to keep it affordable.

**REP. FORRESTER** asked what the bill was attempting to do. **REP. GILLAN** explained the language within the bill and the attempts of the issue involved.

**REP. GEORGE GOLIE, HD 44, GREAT FALLS,** wanted to go on record as being a proponent of this legislation.

**CHAIRMAN STORY** asked about the qualifying facilities currently. **REP. GILLAN** mentioned the long term contract.

**CHAIRMAN STORY** asked if this would create anyone to pay by exemptions given. **REP. GILLAN** referred to portions of Colstrip being sold and where the profits go.

**Closing by Sponsor:**

**REP. KIM GILLAN, HD 7, BILLINGS,** gave more understanding of the bill and offered PSC to fully inform anyone interested with this issue. She said this bill is to focus on consumer protection and figure out how to insure affordability.

**EXECUTIVE ACTION ON HB 646**

**Motion:** **REP. CARNEY** moved HB 646 BE AMENDED. Amendments were handed out HB064601.ate **EXHIBIT**(tah68a06).

**Discussion:**

**Jeff Martin, Legislative Staff,** explained the amendments and the reasonable rate of return.

**Vote:** Motion carried unanimously.

*{Tape 4; Side A}*

**Motion:** **REP. SOMERVILLE** moved HB 646 BE AMENDED. Amendments were handed out HB064602.ajm **EXHIBIT**(tah68a07).

**Discussion:**

**REP. SOMERVILLE** explained the amendments and the credit that is to be received. The companies are to have responsibilities with purchasing equipment.

**Jeff Martin** pointed to the issues the amendment would change in the bill.

**CHAIRMAN STORY** wondered about a time frame per megawatt hours. **Doug Hardy, MT. Electrical Cooperatives**, explained the average megawatt system.

**REP. SOMERVILLE** wanted to make sure the facilities were covered with this bill.

**Motion to Segregate Sections within the Amendment:** **REP. ESP** requested to segregate amendments one and two.

**REP. DALE** asked if business could buy insurance to be covered in areas. **REP. SOMERVILLE** thought businesses shouldn't have the government bail them out.

**REP. BALES** wondered if there were reasons to penalize if something happens beyond their control.

**Vote:** Motion failed 7-13 sections one and two with **REP. FUCHS**, **REP. JACKSON**, **REP. SOMERVILLE**, **REP. CARNEY**, **REP. FORRESTER**, **REP. CYR** and **REP. ANDERSEN** voting aye.

**Vote:** Motion carried 15-5 amending three to five and passing amendment with **REP. WANZENRIED**, **REP. LASLOVICH**, **REP. ESP**, **REP. WAITSCHIES** and **REP. CYR** voting no.

**Motion:** **REP. CARNEY** moved **HB 646 BE AMENDED**. Amendments were handed out HB064601.ajm **EXHIBIT**(tah68a08).

**Discussion:**

**CHAIRMAN STORY** referred to the list and wondered about taking off of the list for the non-limited category. He felt this amendment only offers a statement about coal and gas.

**Vote:** Motion failed 4-16 with **REP. WANZENRIED**, **REP. CARNEY**, **REP. ERICKSON** and **REP. BRANAE** voting aye.

**Substitute Motion/Vote:** **REP. WANZENRIED** made a substitute motion defining the average megawatt. Motion carried unanimously.

**Motion/Vote:** REP. SCHMIDT moved HB 646 DO PASS AS AMENDED. Motion carried 18-2 with REP. SOMERVILLE and REP. FUCHS voting no.

**EXECUTIVE ACTION ON HB 644**

**Motion:** REP. SOMERVILLE moved HB 644 BE AMENDED. Amendments handed out HB064401.ajm **EXHIBIT**(tah68a09).

**Discussion:**

REP. SOMERVILLE explained the amendments. He stated this would become effective once ethanol was made in state. **Jeff Martin** stated the bill would terminate four years after the effective date.

**Vote:** Motion carried unanimously.

**Motion:** REP. SOMERVILLE moved HB 644 BE AMENDED. Amendments were presented HB064403.ajm **EXHIBIT**(tah68a10).

**Discussion:**

REP. SOMERVILLE explained Montana ethanol. **Jeff Martin** went through the sections with additions and clarifications to the bill.

REP. SOMERVILLE strongly supported this amendment having Montana grains being used and produced for ethanol.

REP. BALLYEAT asked if the ethanol would have to be produced in Montana. REP. SOMERVILLE said the intent was for ethanol to be produced in Montana and the fuel could come from outside the state.

REP. BALLYEAT didn't see how they would use Montana grains for this.

CHAIRMAN STORY wondered about a possible oil producing company within the state if that would become available. He was concerned dealing with the fuel and having a messed up tax system.

**Vote:** Motion failed 7-13 with REP. SCHMIDT, REP. CARNEY, REP. DEVLIN, REP. LASLOVICH, REP. JACKSON, REP. DALE and REP. SOMERVILLE voting aye.

**Motion:** REP. SOMERVILLE moved HB 644 BE AMENDED. Amendments were handed out HB064402.ajm **EXHIBIT**(tah68a11).

**Discussion:**

REP. SOMERVILLE said these amendments would change the tax rate. He explained the advantages with the bill and what would be changed through the amendment.

*{Tape 4; Side B}*

REP. BALLYEAT mentioned a mix of 10% ethanol and 90% gasoline and the uses of cutting in half.

**Vote:** Motion carried 15-5 with REP. CYR, REP. LASLOVICH, REP. WANZENRIED, REP. ERICKSON and REP. WADDALL voting no.

**Motion/Vote:** REP. SOMERVILLE moved HB 644 DO PASS AS AMENDED. Motion carried 11-9 with REP. SOMERVILLE, REP. BALLYEAT, REP. BRANAE, REP. CYR, REP. DALE, REP. FORRESTER, REP. LASLOVICH, REP. WANZENRIED and CHAIRMAN STORY voting no.

**EXECUTIVE ACTION ON HB 645**

**Motion:** REP. BALES moved HB 645 BE AMENDED. Amendments were handed out HB064501.ajm **EXHIBIT**(tah68a12).

**Discussion:**

REP. BALES explained how the rural coops would be exempted out of the process.

REP. SOMERVILLE asked if that would include all coops. REP. BALES said it would effect the rural coops. Dave Wheelihan, General Manager, MT. Electric Cooperatives Association, talked about the exemptions from the rural areas.

REP. BALES asked what the difference was. Dave Wheelihan explained what was the difference and who would be exempted.

**Vote:** Motion to pass amendment carried unanimously.

**Motion:** REP. WANZENRIED moved HB 645 DO PASS AS AMENDED carried unanimously.

**EXECUTIVE ACTION ON HB 639**

**Motion:** REP. BALYEAT moved HB 639 BE AMENDED. Amendments were handed out HB063901.ajm **EXHIBIT**(tah68a13).

**Discussion:**

REP. BALYEAT said this amendment clarifies the language authorized by law.

**Vote:** Motion carried unanimously.

**Motion/Vote:** REP. WANZENRIED moved HB 639 DO PASS AS AMENDED. Motion carried 18-2 with REP. BALYEAT and REP. LASLOVICH voting no.

**EXECUTIVE ACTION ON HB 648**

**Motion:** REP. WADDILL moved HB 648 BE AMENDED. Amendments were handed out HB064801.alh **EXHIBIT**(tah68a14).

**Discussion:**

REP. WADDILL explained the amendments and how it would strike planning purposes and add rural fire districts to receive 15%.

**Vote:** Motion carried 19-1 with REP. WANZENRIED voting no.

**Motion:** REP. WADDILL moved HB 648 DO PASS AS AMENDED.

**Discussion:**

REP. KARL WAITSCHIES asked if this would apply to one acre all through the state that would not be classified as agricultural land. REP. WADDILL didn't think it would apply.

CHAIRMAN STORY felt there would be a mechanical problem with the bill.

**Motion/Vote:** REP. WANZENRIED moved HB 648 BE TABLED. Motion carried 11-9 with REP. ERICKSON, REP. BRANAE, REP. CARNEY, REP. CYR, REP. FORRESTER, REP. LASLOVICH, REP. SCHMIDT, REP. WADDILL, and REP. WAITSCHIES voting no.

*{Tape 5; Side A}*

EXECUTIVE ACTION ON HB 647

Motion/Vote: REP. WANZENRIED moved HB 647 DO PASS AS AMENDED.  
Motion carried 19-1 with REP. DALE voting no.

EXECUTIVE ACTION ON HB 600

Motion: REP. FORRESTER moved HB 600 BE AMENDED. Amendments were handed out HB060002.ajm **EXHIBIT**(tah68a15).

Discussion:

REP. FORRESTER explained the amendment changes. Jeff Martin added clarifications of the amendments.

Vote: Motion carried unanimously.

Substitute Motion: REP. WAITSCHIES made a substitute motion adding a CONCEPTUAL AMENDMENT FOR a SUNSET CLAUSE.

Discussion:

REP. WAITSCHIES discussed his proposal and the reasons to add this to the bill.

Vote: Motion carried 17-3 with REP. JACKSON, REP. BALYEAT and REP. WANZENRIED voting no.

Motion/Vote: REP. FORRESTER moved HB 600 DO PASS AS AMENDED.  
Motion carried 19-1 with REP. JACKSON voting no.

**ADJOURNMENT**

Adjournment: 11:50 A.M.

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REP. BOB STORY, Chairman

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CECILE M. TROPILA, Transcriptionist

BS/RV/CT

**EXHIBIT (tah68aad)**